

1 lw-159

2 still want this route indexing. We think the FCC is wrong,
3 we want route indexing. We arbitrated that issue. We had
4 witnesses who came in and testified on that, and the ALJ
5 issued a decision that was affirmed by this Commission that
6 route indexing was not a method that had to be provided.
7 Instead, we had to provide remote call forwarding or direct
8 inward dialing.

9 Now AT&T lost the issue. It is not a
10 checklist compliance issue, it is, at best, an issue for
11 arbitration. But in Oklahoma it is not even an issue for
12 arbitration any more, because it has already been decided.
13 Yet this is the kind of argument that is made to defeat our
14 checklist compliance.

15 Another example, AT&T says we don't meet the
16 resell checklist item because we do not offer for resell
17 promotions of less than 90 days. Again, that was a very
18 heated issue that was before the arbitrator last year, last
19 October. We had witnesses who came in and testified on
20 that. And the Commission, which followed the FCC rules,
21 decided the issue against AT&T. It is over. They lost.
22 And it should not be raised in an effort to defeat a 271
23 application.

24 There is all kinds of dispute about what
25 Brooks is doing, what Brooks is not doing. We can read
their own words in their filing, their initial comments.

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2 "Brooks is currently providing switched local exchange
3 service to thirteen business customers and to three
4 residential customers in Tulsa and one residential customer
5 in Oklahoma City all through resell of SWBT's local exchange
6 service and all currently on a test basis." I don't ask you
7 to find anything else.

8 VICE CHAIRMAN ANTHONY: And what are you
9 quoting from?

10 MR. TOPPINS: The initial comments of Brooks
11 Fiber, March 11th, 1997. And I'm not quibbling with that.
12 And if that is in the report to the FCC, that is fine.

13 Now we can argue about what does that mean.
14 Does that mean they meet Track A or not? If they say, and I
15 think I have heard them say, well, we are not providing
16 facility-based service to residential customers, well, you
17 can listen to me on this, or you can listen to Mr. Moon on
18 this, or we can listen to Congress. Representative Touzan
19 made this comment in a legislative history. "Track B is
20 available when a competing provider of telephone exchange
21 service requests access to serve only business customers."
22 If that is what they're doing, if that is what they say they
23 are doing, that's fine, we will go under Track B. I guess
24 I'm hearing now that we are going to have to make this
25 argument in the next five days anyway to the FCC.

Can you spare one more metaphor in this

1 lw-161

2 dessert thing? We started with hors d'oeuvres. When we
3 look at that bowl of ice cream, that's the long distance
4 market. We would just like to stick our spoon in it with
5 everybody else. You know, that is all we are trying to do
6 here.

7 On behalf of Southwestern Bell and its
8 related companies - - And let me just divert for just a
9 second. There is this question about cross subsidy. The
10 Act itself - - I didn't realize this for a long time. The
11 Act itself does not allow Southwestern Bell Telephone
12 Company to provide this service that I'm up here arguing
13 for. It has to be provided by a separate, structurally
14 separate, affiliate. It is a company we have got called
15 Southwestern Bell Long Distance Service. It has an
16 application pending in front of you right now for a CCN.
17 The anti-cross subsidization safeguards are already in the
18 Act. This isn't a situation where we can cross subsidize
19 our local service with a long distance service.

20 I want to thank you for your time and
21 attention. We believe your report to the FCC should give
22 that agency the facts as you find them with regard to Brooks
23 Fiber's operation, that you should confirm that we have an
24 effective Statement of Terms and Conditions and that every
25 item on the checklist is available to all competitors either
through agreements that they have signed with us or through

1 lw-162

2 the Statement of Terms and Conditions. And if you have
3 concerns about any of this, we once again ask that you
4 direct your Staff to go beyond their investigation of OSS
5 and collocation that is already scheduled to take place and
6 investigate any other checklist concern that you or the
7 Staff have.

8 We all know that there are economic and
9 public benefits associated with opening up competition or
10 broadening competition. This Commission has aggressively
11 implemented competition wherever it could the last few
12 years. Because of the pro-competition stance and policies
13 of this Commission, my company chose Oklahoma as the first
14 state in which to seek long distance authority. And because
15 of your pro-competition policies and my company's decision,
16 we are poised in Oklahoma to experience the benefits of full
17 long distance competition before the rest of the country.
18 Neither of us should let this rare opportunity slip away.
19 Thank you.

20 CHAIRMAN GRAVES: Is there anything of a
21 procedural administrative nature at this point?

22 MR. GRAY: Yes, Your Honor, I have a couple
23 of housekeeping matters.

24 CHAIRMAN GRAVES: Okay.

25 MR. GRAY: Your Honors, I have checked all
three of your offices, and if a decision does not come from

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2 the bench today, we have set deliberations for Friday at
3 9:30.

4 CHAIRMAN GRAVES: That's the 25th?

5 MR. GRAY: Yes, sir. Also, Your Honors, we
6 have to - - I guess it would be helpful to me if we could
7 get some idea as to how the process was going to be. I
8 guess what I would recommend, that once the Commission
9 ultimately issues its decision, that we issue an order from
10 the Commission either accepting, or rejecting or modifying
11 the ALJ's Report. And once that is done, we prepare a
12 separate docket - - or a second document to submit to the
13 FCC with our full finding, well, the Commission's full
14 findings.

15 And, third, I would like to remind the
16 parties that they need to submit to me duplicate copies of
17 all of the filings that were filed in this case, along with
18 a disk and formatted for Word Perfect 5.1. The FCC has made
19 that request. And pursuant to my discussion with the FCC,
20 what our plans are is putting together two boxes with the
21 hard copies, plus the disks and the transcript in this
22 proceeding. One for the FCC and one for the Department of
23 Justice. And ship it off to them on or before the 1st of
24 May.

25 CHAIRMAN GRAVES: Let me suggest that I
think we probably can issue an order affirming or denying

1 lw-164
2 the ALJ's Report. And in that order I would envision
3 directing Staff to prepare comments for the Commission to
4 file. I don't think we have to create the comments as an
5 order in and of itself.

6 I don't know if there is a desire at this
7 point to try and resolve this matter at this time. My
8 personal preference would be that we take a little time,
9 review it and set it over for deliberations. But if there
10 is a clear consensus, then we need to act on it and let
11 people know. So I don't know if there is any desire at this
12 point to carry it over.

13 VICE CHAIRMAN ANTHONY: I think we should
14 continue the matter until 9:30 Friday.

15 COMMISSIONER APPLE: I concur.

16 CHAIRMAN GRAVES: Okay.

17 MR. GIST: Mr. Chairman, I'm sorry, but this
18 document just handed to me, this - - I guess this is the
19 matrix that Mr. Toppins was - -

20 CHAIRMAN GRAVES: Is that the matrix you were
21 referring to?

22 MR. TOPPINS: Yes.

23 MR. GIST: And I - - I mean, I know that some
24 people say this is unusual, but, I mean, I'm going to object
25 to reviewing this as part of the record. I don't even know
where it came from. I don't know what the source of the

1 lw-165

2 information is. I don't know if it has - - The CLEC claims
3 and Southwestern Bell's responses? I don't know whether
4 those are accurate or not. We wouldn't have any opportunity
5 to review them or respond to them. And this wasn't offered
6 at the time of the hearing.

7 CHAIRMAN GRAVES: Okay. We will note the
8 objections of anybody who wishes to be objected - - who
9 wishes to be noted as objecting to this particular
10 document. Excuse me. It is late.

11 Ms. LaValle, do you have an objection to this
12 as well?

13 MS. LAVALLE: I have substantial objection as
14 well, Your Honor. I mean, I am puzzled by why at the
15 conclusion of Mr. Toppins' rebuttal comments we are handed
16 this matrix. We have been here since 1:30 this afternoon.
17 Like I say, this is not provided again in the procedural
18 order. They have had ample opportunity to put such a thing
19 together if in fact they wanted to. And I just flipped to a
20 page on the number portability, and this really highlights
21 my concern about this being offered into the record in
22 effect for the Commission's consideration at this point.
23 You have got interim number portability. The word in the
24 record when the evidentiary hearing was conducted is that
25 Brooks has had service outages and problems with virtually
all of its interim number portability requests. And I see

1 lw-166
2 the first thing under Southwestern Bell's response, "no
3 problems with recent Brooks orders." I have had no ability,
4 AT&T has had no ability, none of us have had any ability to
5 put that statement to any kind of review and test. And I
6 strongly encourage the Commission in trying to close this
7 proceeding with a look of fairness, that it simply reject
8 this filing. It is untimely. It has had - - It has not
9 withstood any test, not even a light gloss. I think it was
10 improper, frankly, for the Commission to even be asked to
11 look at this at the conclusion of this hearing. And I would
12 ask that it not be considered by the Commission at all, that
13 it be returned to Southwestern Bell.

14 MR. TOPPINS: May I address that? I want to
15 ask - -

16 CHAIRMAN GRAVES: Unless we want to get all
17 the objections on the record now and you can do it at once.
18 Mr. Moon.

19 MR. MOON: Your Honor, I would object, but I
20 haven't heard him offer this into evidence yet. So - -

21 MR. TOPPINS: I can solve that if you have
22 this concern. If you want to consider this as argument,
23 this was an attempt - - We have been told we don't meet any
24 of the checklist items. So we went through them all. Now I
25 could have stood up there and read every one of the
potential complaints or the complaints we have heard about

1 lw-167

2 and given you our response. If you would treat this as a
3 summary of my argument, maybe that is the way to solve this.
4 I'm not entering it as evidence. It was a way to avoid
5 being here until 8:00 tonight.

6 MR. MOON: I have no objection if it is not
7 part of the record.

8 MR. TOPPINS: It is part of the record as a
9 summary of my argument.

10 MR. MOON: Well, I do object then.

11 MS. JENKINS: For the record, Your Honors,
12 Sprint concurs with the remarks made by AT&T and Brooks
13 Fiber and also objects.

14 MR. MORRIS: In order to avoid being here
15 until 8:00, MCI also concurs with the objections.

16 MR. TOPPINS: And what was that AT&T - -

17 MS. LAVALLE: We would note it is a copy of
18 something submitted to you at the hearing before the ALJ.
19 And also note, just saying only look at it as argument,
20 there are factual assertions made in this document. I think
21 that it really does cast a pall on the entire proceeding to
22 allow this to be considered in any fashion for any purpose
23 in these proceedings.

24 CHAIRMAN GRAVES: Okay. Well, we will note
25 the objections and take the matter under advisement.

MS. JOHNS: Your Honors, Cox would also like

1 lw-168
2 to note for the record we object.

3 CHAIRMAN GRAVES: Mr. Gray, would you care to
4 join this parade?

5 MR. GRAY: They're on their own.

6 CHAIRMAN GRAVES: Okay.

7 VICE CHAIRMAN ANTHONY: Well, I would like to
8 ask our deliberating attorney. Cece, we have an appeal to
9 the three Commissioners from an ALJ Report. What would be
10 our normal practice, given your understanding of the laws
11 and the Rules of the Commission, regarding the submission of
12 this document?

13 MS. WOOD: What would be the - -

14 CHAIRMAN GRAVES: On the document?

15 MS. WOOD: What would be the rule, well,
16 typically you wouldn't have evidence admitted at the time of
17 an appeal.

18 CHAIRMAN GRAVES: That is why I took it under
19 advisement, so that we could discuss with our Counsel what
20 our relative options are before we make a decision.

21 Is there anything else of a procedural
22 matter at this point?

23 If not, we will continue this matter until
24 9:30 Friday morning.

25 (Whereupon, the record was closed, and the
cause was continued until the 25th day of April, 1997 at
9:30 A.M.)

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Lynette Wrany
LYNETTE H. WRANY, C.S.R.
OFFICIAL COURT REPORTER

rk 1

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICATION OF ERNEST G. JOHNSON,)
DIRECTOR OF THE PUBLIC UTILITY)
DIVISION, OKLAHOMA CORPORATION) PUD 970000064
COMMISSION TO EXPLORE THE)
REQUIREMENTS OF SECTION 271 OF)
THE TELECOMMUNICATIONS ACT OF 1996)

TRANSCRIPT OF PROCEEDINGS

APRIL 25, 1997

OFFICIAL REPORTER:

Rose M. Kidder, CSR

The Cause PUD 970000064 came on for hearing before the Oklahoma Corporation Commission of the State of Oklahoma pursuant to the notice setting the cause for hearing for the purpose of taking arguments with the Commission En Banc sitting.

This Cause was called for hearing on April 25, 1997 and the following proceedings were had:

OFFICIAL REPORTER:

Rose M. Kidder, CSR

THE COURT: Okay, we will turn now to item PUD 97-64 which we had previously continued to this time. When we last left it we had an evidentiary ruling pending over a summary position statement, I believe, that Southwestern Bell wished to present to the bench. Let me say that after my discussions, and what we're going to do here is we are still, I guess, on the record, we will be, I guess, discussing among the Commission here. This is kind of a unique procedure. I particularly didn't want us to get into a deliberation, if you will, for any number of reasons, one of which is you probably would have to re-post it and all those things, the other is it doesn't allow for what I think is very important exchange between the parties and the bench over these issues. I don't want to get into a discussion about a particular issue and materially misstate someone's position and not allow for someone to correct a mis-interpretation or misunderstanding on my part. And to that extent I hope that we recognize the relative unique nature of this particular proceeding. It's clear that no one--I think it's safe to say that no one in the country has done one of these yet. I don't think that there has been this sort of proceeding on a state level under the direction of the FCC and what they perceive to be their authority under the Federal Act.

What is clear to me is this action that we have been asked to take on the state level is not a final action. It is

1 rk 4
2 consultant to the FCC. This is not a final adjudication of
3 any issue on our part. It is merely an attempt to share our
4 thoughts with the FCC who has the final authority under
5 Federal Act. And consequently it's not, as in my opinion as
6 the Attorney General argued, a strictly evidentiary hearing
7 where you have to follow the very direct and specific
8 procedures under the various statutory guidelines that we
9 have. In my mind this is more analogous to a legislative
10 rulemaking kind of a proceeding. It falls, I think, in my
11 opinion more under an NOI type setting where we're seeking
12 comments and input. It was styled as an application to
13 explore the requirements of Section 271. To me that's not,
14 you know, the mandate, it's not a fact specific kind of
15 thing. We're not settling rights between parties
16 particularly. We're merely reviewing a standard that's in the
17 Federal Act from our perspective as state regulators and
18 policy makers and then submitting those comments to the
19 FCC.

20 So with that understanding as we go forward I hope folks
21 won't object to counsel speaking directly to the bench. We'll
22 certainly allow everybody the opportunity to share with us
23 their thinkings as we begin this decision making process. But
24 I am inclined to be very lenient in terms of if folks want to
25 put stuff into the record here, that's fine. I personally
haven't reviewed or relied upon those documents. Again since

rk 5

it's not a final adjudication I'm not sure we have the same sort of record standards that are out there that we might have in a more formal judicial proceeding.

I got to wondering if someone objected to an evidentiary finding on our part or a procedural ruling where would they go. Usually you go to the Oklahoma Supreme Court to object to an order or the way we've based our orders. I'm not sure that they would entertain an objection to a procedure where we were filing comments at the FCC. And even if they did I'm not sure it's timely to the point that it would help anybody. So the fact of the matter is if you don't like the process we've pursued here or certainly if you disagree with any findings we make no one is likely to be denied the opportunity to share those thoughts with the FCC in whatever format or mechanism they style. So I think it's important to note that if there are concerns about the way we've handled this particular proceeding the parties are not without remedy. They have the opportunity to go to the FCC and say: Look, they really botched it in Oklahoma, they considered all of these factors they shouldn't have or they didn't consider all of these factors that they should have. And to that extent I would be inclined to allow whatever in the record here and we'll bundle it all up and send it up to the FCC to allow them to review it if that's the kind of information they want.

It's interesting to note that only the Justice

rk 6

Department, and we know that there are people by lawyers,
requested a full-blown evidentiary hearing or suggested that
we undergo full-blown evidentiary type hearings. And I think
that that stems from an acknowledgement that those on the
Federal level cannot directly control access to local
markets. And there has consistently been, and it's an
underlying theme when you go back and review the legislative
history, there's a consistent theme about can states
effectively do this.

We have heard lots of comments about there's got to be a
one size fits all Federal standard. We can't have this
patchwork quilt of local rules popping up all over the country
because we're big national companies and we shouldn't have to
deal with fifty different standards. And what's clear is that
Congress delegated a certain amount of authority to the
states. They did not supersede, even though there were
attempts and at one point key elements of the 1934 Act were
removed from the statute that would have taken away our
ability to control inter--intrastate rates, terms and
conditions and services and that was put back in during the
conference committee. And I've sensed or my perception is I'm
sensing a sort of a concern on the part of some Federal policy
makers that: Gosh, we better control this process tightly or
states may not do what we want them to do, they may not follow
the rules and the process and the procedures that we want to

1 rk 7
2 do. But it is clear that Congress wanted to leave a lot of
3 local access issues back in the states.

4 And that goes to another underlying concern that I had
5 and that's one of that's been expressed by several parties
6 that by granting an application, let's say; or not granting
7 the application, because again we don't have that authority,
8 but suggesting to the FCC that: Gosh, it's okay for
9 Southwestern Bell to go in the long distance market as far as
10 we're concerned but somehow we lose our leverage over local
11 exchange companies and the ability to monitor the
12 interconnection process. And I don't agree with that
13 assessment.

14 Mr. Moon and I had a discussion on the record about where
15 is the ultimate responsibility and authority there and I think
16 we both agree that as long as companies are under rate base
17 rate of return regulation there's a great deal of control that
18 can be exerted by states. Mr. Moon was correct in pointing
19 out that that issue is still up in the air inasmuch as 1815 is
20 alive across the street and that there are elements of that
21 bill that would seek to immediately remove companies from rate
22 base rate of return regulation. It's one, quite frankly,
23 primary reasons that I have opposed 1815 because I don't think
24 it's appropriate. To me from a policy matter I don't see any
25 difference, I don't see any change in the local environment
and the desire of this body to open up local exchange markets

1 rk 8
2 by letting someone else go out in the long distance
3 market. It's not going to make it any easier for someone to
4 deny people the access to the network elements they
5 need.

6 What is consistent throughout this is that the parties
7 have agreed that the Commission has authority to enforce
8 disputes and resolve disputes among parties as they seek to
9 work their way through these new interconnection problems,
10 many of which no one could have anticipated when we began the
11 process a year ago. But yet to date no one has sought relief
12 from the Commission to resolve any of those disputes. We've
13 been told on a couple occasions: Well, they're business
14 decisions as to why we did or didn't. It's a business
15 decision why we haven't come to Oklahoma sooner, for
16 example. The fact is we had the ability to control access to
17 local markets and I think it's clear--while it may not be
18 clear where we want to go with this particular issue, I think
19 it's clear from the Commission that we very aggressively want
20 to open up local markets and we want to afford competitors
21 every opportunity to get into the market. And to the extent
22 competitors aren't getting those opportunities to advance into
23 the local markets then they need to come let us know and we'll
24 insure that that happens.

25 And that's as much a message to the incumbents as to
anybody that, you know, should status change that doesn't mean

1 rk 9
2 at all that we're going to remove or relinquish our
3 responsibility and lessen our adherence to the rules that are
4 out there.

5 VICE-CHAIRMAN ANTHONY: I would like to
6 express some concerns about what you've outlined.

7 CHAIRMAN GRAVES: Sure.

8 VICE-CHAIRMAN ANTHONY: The application before
9 us as filed with the Commission on February 6th by our Public
10 Utility Director mentions, as we all know, that we have an
11 opportunity to consult, that's the word in the Federal
12 Act.

13 CHAIRMAN GRAVES: Uh-huh.

14 VICE-CHAIRMAN ANTHONY: Page 2 of that
15 application states that: "The FCC and the Justice Department
16 encouraged the State Commission to open a docket." It goes on
17 to say: "The FCC and the Justice Department recommended that
18 a full evidentiary hearing be conducted and that the record in
19 the respective cause--"

20 CHAIRMAN GRAVES: Right.

21 VICE-CHAIRMAN ANTHONY: "--be submitted to them
22 for their review."

23 CHAIRMAN GRAVES: Right.

24 VICE-CHAIRMAN ANTHONY: So when the application
25 itself made reference to a docket, a full evidentiary hearing
and a record then I think that our consultation with the FCC

1 rk 10
2 would have greater weight if we would stick to our rules,
3 abide by normal procedures. And the fact that this is a first
4 time might mean it would be even wiser to follow normal
5 process.

6 CHAIRMAN GRAVES: Assuming we have a normal
7 process here at the Commission. I think a lot of people would
8 disagree that we do anything normally around here.

9 VICE-CHAIRMAN ANTHONY: Well, and our
10 reputation is somewhat determined by our own actions.

11 CHAIRMAN GRAVES: I would agree with that.

12 VICE-CHAIRMAN ANTHONY: We have rules of
13 procedure. We have a process whereby people file an
14 application, they give notice and hearing, and as Mr. Gist
15 explained yesterday, orders are issued and based upon
16 evidentiary information and the Attorney General cited his
17 perspective as well.

18 Now I have a little bit of concern that this record shows
19 that people made motions to have depositions, to
20 cross-examine, to shorten notice periods and at that point in
21 this process we had a strict application of the rules. I'm
22 sorry, you've got to give 5 days notice, don't have time for
23 that, we're not going to allow you to do that. So up until
24 this point the process was applying our rules and, therefore;
25 we didn't have witnesses brought forth and cross-examined to
the extent that we normally would.

1 rk 11

2 Frankly I would prefer that the three Commissioners try
3 and decide what we're going to decide. Maybe, though, I
4 hear--you know, when we're in this process we always look for
5 something all three of us agree on so that we can get started.
6 This application does talk about a record. And I believe I
7 already heard you say that we would take the record and bundle
8 it up and send it to the FCC. So that is what I envision that
9 we're working toward. Now whether the record includes a
10 unanimous vote of the Commissioners that they think we're on
11 Track A or Track B or the fourteen points come out this way or
12 that way, I guess, is yet to be determined.

13 But in any event we're all in agreement that we're going
14 to take the entire record of this matter including the
15 transcripts from below and all of the filings and send it to
16 the FCC. Well, that's a good start. But that's a concern
17 that I have that we have pursued this process under what many
18 apparently felt was a bit of a formal Commission application.

19 CHAIRMAN GRAVES: Much like an NOI or a
20 rulemaking.

21 VICE-CHAIRMAN ANTHONY: Well, but it didn't say
22 NOI.

23 CHAIRMAN GRAVES: I understand but those are
24 applications and dockets are opened. And that's the point no
25 one came to us and said: Wait a minute, we didn't get the
opportunity to resolve these kind of procedural issues early

rk 12
on and maybe save people a lot of time and effort doing
that. I mean, to me it's a question of form over
substance. And I think the substance of the issue is what's
the general policy of the State of Oklahoma as to the
obligations of meeting the checklist. And I don't want to get
us in a situation where someone can tie us in knots and say:
Well, that may be the answer but they never put a witness on
to give you the basis of making that on an evidentiary kind of
standard when quite frankly this in my opinion is not that
kind of evidentiary process that we need to go through in this
particular issue, if only because on a reasonable basis there
is no way you can ever get a sort of current evidentiary
basis. It's not like you're trying to determine what happened
on the 19th of January, 1997 at a certain point in time. It's
an ongoing process, it's an evolving process. I mean, the
point is they may not have met the standard a week ago but
they met it today. If they haven't met it today they might
meet it next week. The question--and I'm not sure that
holding yourself to a strict kind of judicial proceeding like
that allows you to get at the answer you're trying to get or
the determination you're trying to get. I would rather have
as open a process as possible, allow everybody to put
whatever--in whatever they want, we make a decision based upon
our policy concerns and objectives as elected public officials
and we send it off to Washington.

1 rk 13

2 Now I think it is critical to note that the DOJ and the
3 FCC said: You ought to have an evidentiary hearing. And it
4 is clear in this whole process that the DOJ and the FCC have
5 never wanted the states involved in these determinations. I
6 mean, that's clear from the legislative history. And if I
7 were them I would make it as difficult as possible for the
8 states to participate in the process. I mean, I think what
9 they would love to be able to say is: Ah-ha, Oklahoma can't
10 do that, why they didn't allow for the cross-examination of
11 several critical witnesses. And they throw it out on some
12 sort of technical basis based on FCC rules. And if that is
13 what they want to do, that's fine, but that's not getting at
14 the heart of the issue. And these are fundamental policy,
15 broad policy questions that affect markets and I think it is
16 important for us to review it in as broad a context as
17 possible by as much participation as possible.

18 Quite frankly if somebody asked me about depositions and
19 all that I would have suggested early on that there is no
20 reason to go through that, we probably ought to just have
21 counsel stand up and make policy arguments as to where they
22 are and, you know, you allow people to refute back and forth
23 and then we make a judgment much like we do and much like we
24 did when we wrestled with the universal service rules.

25 VICE-CHAIRMAN ANTHONY: Okay, let me just
clarify. I'm not suggesting that we go back. I frankly want

1 rk 14

2 to see if we can decide this matter. And in that regard maybe
3 somebody, one of the three of us at this point could just
4 outline what is the question, what do we need to answer
5 because I think that's a good place to start.

6 CHAIRMAN GRAVES: Has Southwestern Bell
7 satisfied the provisions of 271.

8 VICE-CHAIRMAN ANTHONY: Okay, and--

9 CHAIRMAN GRAVES: From our perspective as state
10 regulators.

11 VICE-CHAIRMAN ANTHONY: And I, with the
12 assistance of the General Counsel, made a copy of what I think
13 are the three pages of the Act that apply to that and I'll be
14 happy to hand my colleagues a copy for reference.

15 CHAIRMAN GRAVES: Okay.

16 VICE-CHAIRMAN ANTHONY: So in order to do
17 that--see, we're on the same page, 271, Commissioner Graves
18 and I agree.

19 CHAIRMAN GRAVES: Now I'm worried.

20 VICE-CHAIRMAN ANTHONY: Now if you turn to Page
21 2 and it's got--I even put a little arrow by each one, it's
22 got Track A and Track B.

23 CHAIRMAN GRAVES: Uh-huh.

24 VICE-CHAIRMAN ANTHONY: Turn to Page 3 it's got
25 the competitive checklist. That's what the ALJ's report
addressed and that's what I think we need to address and maybe